MINUTES
of the
THIRD MEETING
of the
TRANSPORTATION INFRASTRUCTURE REVENUE SUBCOMMITTEE

August 24, 2015
State Capitol, Room 309
Santa Fe

The third meeting of the Transportation Infrastructure Revenue Subcommittee was called to order by Senator John Arthur Smith, chair, on August 24, 2015 at 9:45 a.m. in Room 309 of the State Capitol.

Present	**Absent**
Sen. John Arthur Smith, Chair	Rep. Cathrynn N. Brown
Rep. Rick Little, Vice Chair	Rep. Patricio Ruiloba
Sen. Lee S. Cotter	
Rep. Roberto "Bobby" J. Gonzales	
Sen. Ron Griggs	
Sen. Clemente Sanchez	

Advisory Members

Sen. Carlos R. Cisneros	Sen. Jacob R. Candelaria
Rep. Sharon Clahchischilliage	Rep. David M. Gallegos
Rep. Bealquin Bill Gomez	Rep. D. Wonda Johnson
Rep. Patricia A. Lundstrom	Rep. Paul A. Pacheco
Rep. Rod Montoya	Sen. William H. Payne
Rep. Jane E. Powdrell-Culbert	Sen. William E. Sharer

Guest Legislators
Rep. Randal S. Crowder
Sen. Howie C. Morales

Staff
Mark Edwards, Legislative Council Service (LCS)
Tessa Ryan, Staff Attorney, LCS
Pam Stokes, Staff Attorney, LCS
Erin Bond, Intern, LCS

Guests
The guest list is in the meeting file.

Handouts
Handouts and other written testimony are in the meeting file.

Monday, August 24

The chair began the meeting by summarizing the revenue forecast that was presented to the Legislative Finance Committee by the Consensus Revenue Estimating Group (CREG) the previous week. The CREG estimated there will be approximately $293 million in new money in fiscal year (FY) 2017 and that the price of oil for FY 2016 would be around $51.00 per barrel. The chair advised that at this time last year, the CREG had estimated that new money for FY 2016 would be $285 million, but due to the fall in oil prices, that number was adjusted to $141 million by the end of the year. He cautioned the possibility of an adjustment in the estimate of new money for FY 2017 if oil prices continue to fall.

City of Clovis

Clovis Mayor David Lansford, Representative and Clovis Commissioner Crowder, Clovis City Manager Larry G. Fry and Clovis Public Works Director Clint Bunch made a presentation on the transportation needs of Clovis. The presentation began with an outline of the funding sources available to Clovis for street improvements, which include municipal, state and federal sources. Clovis currently has 11 projects totaling almost $42 million, but only a few of the highest prioritized projects could be completed with available funding. The first priority is to reconstruct and widen one mile of Wilhite between State Highway 209 and Norris Street, at a cost of $5.4 million. Ninety percent of the design of that project is complete, and the funding has been identified.

The panel described recently completed projects, projects expected to be completed soon and upcoming projects. Recently completed projects include improved access to Plains Regional Medical Center and developing neighborhoods off of Norris Street, and the extension of 14th Street is expected to be completed by fall 2015. The panel briefly described urgently needed projects, including repairing State Highway 60/84 to Fort Sumner and State Highway 209 to Tucumcari. The city has not found funding for these projects yet.

The presenters highlighted anticipated drivers of economic growth that would increase demand on transportation infrastructure: 1) the Tres Amigas transmission project, for which the city approved a $1.6 billion industrial revenue bond; 2) the continued growth in personnel stationed at Cannon Air Force Base, currently bringing in an annual economic impact of over $588 million; 3) anticipated wind energy projects; and 4) the possibility of a racino being located in the area. The panel advised that a four-lane highway is needed from the state line in Texas to United States Highway 285 in Vaughn to improve access to the central part of the state from the eastern part of the state.

Other city transportation programs discussed were a daily flight service from Clovis Municipal Airport to the Dallas/Fort Worth International Airport with funding from the United States Department of Transportation's Essential Air Service Program and on-demand bus services in Clovis and Portales for which the cities charge $.75 per ride.

At the conclusion of the presentation, the panel stood for questions from subcommittee members. The panel was asked what are the maintenance issues in Clovis, to which the panel responded that Clovis has a failing infrastructure, like many communities, and pointed out that the inclement weather last winter was especially hard on the roads, creating potholes and other deterioration that crews must steadily fix. It was pointed out that the city, through a memorandum of understanding with the state Department of Transportation (DOT), must repair and maintain portions of state highways that are located within the city limits, and that commitment takes a significant portion of the city's budget. In addition, the weight of the heavy loads from the area's agricultural and dairy industries, and the expected phenomenal loads carried by trucks servicing Tres Amigas and wind farms, are causes for significant concern for further deterioration of the roads.

A subcommittee member pointed out that, unlike most state and federal road projects, local projects involve costs in addition to building a road. Water and sewer lines have significant costs the city must cover, and while it may be that a developer pays for the initial installation, the city must provide maintenance.

A subcommittee member asked if the total cost for the 14th Street extension was really $1,247,194.69, as reported in the panel's handout, and which is being funded through developers, residents and the city. Originally, the local share of the project was projected to be 40%, but it has since been reduced to about 35%. The residents and businesses pay a one-time assessment to pay for the project, but it is considered a benefit for those residents and businesses, so the project is looked upon positively.

Regarding the on-demand bus service, several questions were asked as to whether the $.75 fare covers the costs of the service. The panel stated that it does not cover the costs, but the federal government and the local taxpayers subsidize the program. When asked if the program is working or worthwhile, the panel stated that use of the program is substantial, although the panelists did not have specific numbers, and that it meets the needs of certain segments of the population that depend on it for basic life functions. It was further explained that it is not a fixed route system; rather, the stops are scheduled 24 hours in advance.

Several questions were also asked about the possibility of a racino being located in the area. While there has been a lot of interest from a variety of developers, the panel was not sure if and when a racino would be located near Clovis. The city is waiting to hear from the state as to whether the state will authorize a racino license. In the meantime, the city is educating the public on the social and economic impacts a racino may have on the area.

The panel was also asked how the members of the community would feel about an increase in a tax to pay for roads. The panel stated that there had been a lot of informal communication regarding an increase in the gas tax after the introduction of the local option gas tax bill, Senate Bill 114, in the 2015 regular session. While there was no organized survey, it appeared that it would have been looked upon favorably by the community; however, there is no real way to know how individuals would vote given the opportunity. A member later commented that the last gas tax increase was in 1993.

Lastly, the panel was asked how the services that are offered on Cannon Air Force Base affect the city's finances. The base offers many services to U.S. Air Force personnel, including gas stations, and a new medical center is planned. The city does not receive any gross receipts tax revenue from those services. Additionally, the city does not receive property tax revenue from the base. It was stated that per capita tax revenues are less when compared to other communities of the same size because of the untaxed services on the base.

Town of Taos and Taos County

The next presentation was made by Jim Fambro, vice chair of the Taos County Commission, Stephen P. Archuleta, Taos County manager, Brent Jaramillo, deputy Taos County manager, and Francisco Espinoza, public works director for the Town of Taos.

The Taos County representatives began the presentation by going through the data from one of the handouts. By the end of FY 2016, the operating budget for the county's Public Works Department will be just over $2 million, and the cost to maintain roads in the county will be approximately $6,586 per mile. Challenges facing the county in regard to its roads include an aging infrastructure that has deteriorated due to inclement weather in the winter that brings a lot of snow to the area. Additionally, the county has 28 bridges that need to be repaired or replaced, according to the DOT. Six of those bridges are on the DOT's watch list requiring an on-site examination every 30 days. Another challenge for the county is having to use aging trucks and other infrastructure equipment, which would cost approximately $2 million to replace.

Current projects that are under way and two proposed projects were discussed, as well as their funding sources. The proposed projects include improving Los Cordovas Road, which was requested by University of New Mexico-Taos to benefit the students and faculty of the school who come into town from the north. The county partnered with Taos Ski Valley on a tax increment development district (TIDD) to provide locals an alternative route from the road to Taos Ski Valley, as well as reducing the traffic jams skiers must sit through on their way to Taos Ski Valley. The second proposed project is to improve Blueberry Hill Road in the central part of Taos to give locals an option to avoid traffic on Paseo del Pueblo Norte.

A separate handout was provided for the Camino del Medio project, a joint effort between the Town of Taos and Taos County that involves a 3.03-mile stretch of New Mexico 240/Ranchitos Road. The scope of work includes widening the road to provide a shoulder and bike lanes, pavement reconstruction, safety improvements and drainage improvements. Construction costs are estimated at $3.3 million, not including right-of-way or gross receipts tax costs. Taos County and the Town of Taos have identified $521,472 in funding, which comes from the county, the town and the legislature, but $3,578,330, or 87%, of the project is still unfunded. The town and county will pursue all potential funding sources, including federal, state and local grants.

The Town of Taos representatives provided a handout with its roadway capital improvement projects, which included an outline of various studies on roads and traffic in Taos. Several maps in the handout show how traffic has increased at the Taos Plaza intersection since 1964 and that it is expected to increase by 21% between 2014 and 2034. The condition of the pavement of the roads in the town has deteriorated since 2012. In 2012, just over 10 miles of streets were in poor condition and nearly 30 miles were in good condition, but the trend has been downhill. In 2015, almost 20 miles are of streets are in poor condition and just over 20 miles in good condition.

Two projects were described, the first being Camino de la Merced, a $1.4 million project that has been environmentally cleared, whose rights of way have been secured and that is shovel-ready, but it is underfunded by over $1 million. The town has been trying to fund the project since 2007, but at this time, only 425 feet have been completed. The second project is Este Es Road, an initiative that started in 2005 and is nearly complete. The signal lights should be completed in the next 30 days.

The town completed its presentation with an explanation that the lieutenant governor from the previous administration had requested local governments to describe what their infrastructure needs would be over the next 20 years. The town stated that the 20-year project for construction costs in the town would exceed $46 million. A rough estimate of costs for one mile of a two-lane roadway includes $1 million for construction of a road with a 20-year life, $600,000 to mill and fill a road to extend its life by 10 to 12 years and $300,000 to overlay a road to extend its life by five to seven years.

With the presentations completed, the panel stood for questions, which began with whether the Taos Ski Valley developers considered the impact that potential growth in the community, due to the new hotel, shops and other expected economic activity, would have on the transportation infrastructure and if that impact was included in the development plans. A representative for the county assured the subcommittee that it was included and that when it gave up tax dollars in the process for TIDDs, the county was very concerned about the impact the development would have on the roads.

Several questions and comments were made regarding the plans to include bike paths on the roads, including how a bike path would fit on the very narrow main road. Representatives from the panel admitted it would be a challenge negotiating with landowners that have had land in their families for generations; however, bike lanes and safe infrastructure for bikers are important to the community. Biking has increased and is expected to further increase in the area, and the county wants to give its residents what they want as well as provide that option to people coming into Taos.

A subcommittee member said that, historically, local governments relied heavily on capital outlay, and if a local government did not get the needed funds in one year, there was a good chance of getting it the next. Times have changed, however, and local governments have not been able to rely on that funding in recent years. It was suggested that the county and town look at some of the capital outlay balances that could be redirected toward transportation projects. Panel members advised that they are looking at those balances for possible options; however, often the problem is having to wait to receive the grant agreement from the Department of Finance and Administration, which sometimes comes too late in the year. If the grant agreement comes in October, it is too late because roads cannot be paved in the winter.

A subcommittee member asked about the recent job losses due to the shutdown of the mine and the impact it is having on the community. The panel explained that efforts have been made to have the developer at Taos Ski Valley hire local contractors to help those affected. The large trucks taking the equipment out of the mine are having a significant impact on the roads as well, but officials are trying to work with Chevron on that issue. It was pointed out that the local governments are not seeing the bump in gross receipts tax revenue that was expected from the work involved in closing down the mine. A member requested a list of the subcontractors so that the Taxation and Revenue Department can look into the issue.

DOT Long-Range Plan

Randall Soderquist, Asset Management and Planning Division, DOT, gave an overview of the DOT-developed long-range transportation plan. He noted that the handout distributed to the subcommittee described the plan in very simple terms, but anyone interested may view it in full on the department's web page (http://newmexicotransportationplan.com/). Secretary of Transportation Tom Church, who was in the audience, commented periodically on topics raised.

Mr. Soderquist outlined the plan's purpose and the method used to develop it. The plan, whose development satisfies a federal requirement, sets out a performance-based, strategic framework to guide transportation-oriented decisions of the department, metropolitan planning organizations and regional transportation planning organizations. In developing the plan, the DOT engaged stakeholders, including topic-specific working groups, region-based working groups and other groups, to: 1) pinpoint transportation-related conditions, trends and needs; 2) identify goals; and 3) explore options to reach those goals. As part of the process, three funding scenarios and their implications were considered — namely, that revenue rates continue, revenue rates increase and revenue rates decrease. Secretary Church remarked that the "low revenue" scenario involved the cessation of federal highway funds, which constitute 50% of the state's transportation budget.

Mr. Soderquist next summarized the plan's content. The plan centers on the vision of creating a "safe and sustainable multimodal transportation system that supports a robust economy, fosters healthy communities, and protects New Mexico's environment and unique cultural heritage" and the goals of: 1) transparency and accountability; 2) safety for all system users; 3) preservation and maintenance; 4) access and connectivity; and 5) respect for cultures, the environment, history and quality of life.

Secretary Church added some remarks about the department's efforts to collect and analyze data. The plan development process began about two years ago, and the department has interacted positively with local communities in deciding how best to use limited resources. DOT-collected data will help it determine the greatest transportation infrastructure needs and, thus, which projects rank highest in funding priority.

Subcommittee members offered their feedback, remarking that: 1) Secretary Church should consider meeting with Edwynn L. Burckle, secretary of general services, on the subject of project management principles to improve efficiency and effectiveness in implementing strategies and initiatives; 2) there should be more flashing speed-control signs throughout the state; 3) counties in the border region face challenges in maintaining roads that were not designed to handle the large fleets of shipping trucks and border-patrol vehicles increasingly driven on them; 4) fluctuating and inconsistent revenue for transportation infrastructure makes it hard for local contractors to rely on state projects for business, so many relocate to neighboring states; 5) subcontractors often complain about not getting payment from state projects because the state holds back certain payment portions; and 6) counties often prefer using cold-mix asphalt concrete to hot-mix asphalt concrete, and having requirements for hot-mix use can delay development.

Additionally, a member requested from the DOT detailed information on: 1) the gap between road improvement needs and actual spending on road improvement and how much more it will cost if investment in transportation infrastructure is delayed; and 2) the liability caused by deficiencies in bridges, roads and road signs.

In response to members' comments and questions, Secretary Church said that: 1) federal rules require prime contractors to pay their subcontractors within 30 days of completing their work, and the state's responsibility in this context is limited to paying the prime contractor for the work for which the state contracted; 2) the DOT is reintroducing cold-mix asphalt concrete specifications, by which counties may abide; 3) construction and maintenance projects are scattered relatively evenly throughout the state; 4) different factors affect the determination of which projects get funded; federally funded projects consist of those in the state's seven-year state transportation improvement plan (STIP); the content of the STIP is shaped mostly at the local level by regional and metropolitan planning organizations, whereas other projects are funded through capital outlay or a mix of federal and state sources; 5) the department identifies critical, underfunded projects for capital outlay funding; 6) some transportation infrastructure-related emergencies are dealt with using federal money; others are paid for from state pools that are intended for other uses; 7) roads have a life span that can be prolonged if they are maintained every few years; much of the state's roads' pavement was laid in the 1950s and 1960s, and although the state's climate is favorable for road longevity, those roads still need maintenance, especially to save money in the long run; 8) the newly developed transportation plan, whose strategies are not tied specifically to spending, sets the framework for the STIP and underscores the importance of safety and maintaining infrastructure; and 9) the determination to select a contractor — whether local or out of state — depends on factors that include procurement rules, the project value, the nature of the bonds, commission approval and appeal by other bidding contractors. Anthony Lujan, deputy secretary, Highway Operations Office, DOT, who was in the audience, said that the contract award process generally takes about 90 days.

Changing the Motor Vehicle Excise Tax: Implications for the General Fund

Jeff Eaton, research and fiscal policy analyst, LCS, introduced himself to the subcommittee, spoke briefly about his professional background and presented a report he had written on the implications for the general fund of redirecting portions of the motor vehicle excise tax to the State Road Fund.

Mr. Eaton highlighted some circumstances that contribute to the state's transportation revenue deficiencies and noted that many states are responding to federal transportation funding declines by pursuing state-based initiatives. Transportation revenues have dropped because: 1) state funding has stayed flat — a result, in part, of improved gas-use efficiency and changes in driving behavior; 2) federal funding has decreased; and 3) road improvement costs have increased. About half of the states, which face similar funding shortfalls, have enacted measures to increase transportation revenue.

Mr. Eaton gave a history and overview of the motor vehicle excise tax. The tax is imposed on certain motor vehicle purchases at a rate of 3%. Revenues from the tax have generally increased from year to year and are projected to continue to increase. Because the tax is based on motor vehicle prices, its revenues keep pace with inflation. Over the years, the tax's revenue has been variously distributed, at one time going exclusively to the State Road Fund and to the Local Governments Road Fund. Currently, nearly all revenue from the tax is distributed to the general fund.

Working with an economist at the DOT, Mr. Eaton estimated the revenue losses to the general fund under various scenarios in which the motor vehicle excise tax revenue is diverted to the State Road Fund: 1) a phased diversion of all of the revenue over five years; 2) a phased diversion of all of the revenue over 10 years; and 3) a phased diversion of half of the revenue over five years. He referred to tables in his handout showing those respective amounts over time.

Lastly, Mr. Eaton reviewed key aspects of the consensus revenue estimate for the general fund for FY 2017, including risks to the forecast and an expenditure outlook for that year and beyond. In particular, the following points are noteworthy for their potential to influence projected revenue levels: 1) oil and gas production has increased while those resources' prices have fallen; 2) much of the state's job growth is concentrated in the health care sector; 3) the state recently saw its first net population decrease in more than 60 years; 4) it is expected that personal income will grow in the next several years; 5) it is expected that the jobs measure will return to its pre-recession level in 2017; and 6) the fiscal effects of changes made in 2013 to the corporate income tax were significantly underestimated but continue to be tracked. The following are noteworthy forecasted expenditures for FY 2017: 1) Medicaid-related programming — $89.2 million; 2) public education-related growth — $117 million; and 3) higher education, public safety and all other government program growth — $173.3 million. Other risks and expenditures for the upcoming fiscal year and future years concern public school operations; public school capital outlay; public employee compensation; federal health insurance reform; and transportation construction and maintenance.

The subcommittee asked questions for clarification and commented in response to Mr. Eaton's presentation. Many subcommittee members remarked on the tough choices that the state faces in providing adequate funding for competing needs and spending requirements, including transportation infrastructure, education and health care. Suggestions to help cover the state's spending needs included the revenue-generation options of reimposing, but at a lower rate, the gross receipts tax on food or medical expenses, raising the gas tax and raising the motor vehicle excise tax rate. A member commented that if closing the budget shortfall in the State Road Fund was the priority, then implementing the five-year phased diversion of the motor vehicle excise tax would be strong step. Members noted that each of the suggested ideas would elicit controversy. Other members asked about and stressed the importance of the governor's support for any plan, including diverting motor vehicle excise tax revenue to the State Road Fund, to expand resources for transportation infrastructure. A member commented on the pressing need for a long-term plan rather than a temporary deal — i.e., the need to establish a sustainable revenue stream that overcomes the challenges of inflation, cost increases and variability in gas prices.

Motion

A motion to approve the minutes from the meeting on July 1 was adopted without objection.

Constitutional Proposals to Dedicate Motor Vehicle-Related Taxes and Fees to the DOT Construction Budgets

Senator Cotter and Representative Gonzales discussed two joint resolutions proposing constitutional changes that they had separately introduced in the 2015 regular session. Both resolutions would have put to voters questions of whether the use of motor vehicle-related revenue should be restricted to transportation-related purposes. Senator Cotter reported that his joint resolution, which he said would require that highway funds be used for highways, did not make it out of the Senate Rules Committee, its first committee assignment. Representative Gonzales said that his joint resolution was similarly stymied. Also, he asserted that if the public has confidence that revenue collected for a particular purpose will be used to carry out that purpose, there would be more support — as has been building in other states — for raising more transportation revenue.

A member commented that constitutional amendments like these remove the year-to-year flexibility that legislatures use to meet changing fiscal challenges. In an ensuing general discussion on transportation funding, points were raised about: 1) giving local governments the authority to raise revenue for their own transportation infrastructure projects; and 2) the construction costs connected to the state's prevailing-wage policy. A member requested that staff report at a future meeting on the measures to raise more revenue for transportation infrastructure that have been taken recently by other states.

Adjournment

There being no further business before the subcommittee, the subcommittee adjourned at 3:30 p.m.